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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VIOLET BLUE, an individual,

Plaintiff/Counterclaim Defendant,

vs.

ADA MAE JOHNSON et al.,

Defendant/Counterclaim Plaintiff.

Case No.: C 07-5370 SI

**DEFENDANT WOFFINDEN'S  
SECOND AMENDED ANSWER TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT, AFFIRMATIVE  
DEFENSES, COUNTERCLAIMS,  
PRAYER FOR RELIEF AND JURY  
DEMAND**

Hon. Susan Illston  
Courtroom 10, 19<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

**ANSWER**

COMES NOW the Defendant Ada Mae Woffinden *nee* Johnson aka "Violet" aka "Violet Lust" aka "Violet Blue" ("VIOLET BLUE"), by and through her attorneys, and alleges, as her Answer to the First Amended Complaint of Plaintiff Violet Blue, a self-styled pornography aficionado, on information and belief, the following:

**INTRODUCTION**

1 Almost eight (8) years ago, Defendant WOFFINDEN began her acting and modeling career,  
2 starring and/or performing in traditional, mainstream productions, as well as starring and/or  
3 performing in productions that are commonly characterized as adult erotica. Adult Film Database  
4 (<<http://www.adultfilmdatabase.com>>) and the Internet Movie Database (<<http://www.imdb.com>>)  
5 both list the July 1999 production of a work entitled SMUT 14 as the oldest date in which the  
6 performer Violet Blue appeared. Defendant WOFFINDEN has no independent recollection of that  
7 production, but remembers only that in the year 1999, she performed in the production of The Crow  
8 Salvation (in which she had no speaking part, and therefore was not credited).

9 At about the same time, upon information and belief, Plaintiff BLUE, a self-styled  
10 pornography aficionado, was employed at a pornography store located in San Francisco, California,  
11 named "Good Vibrations," wherein copies of Defendant WOFFINDEN's video performances were,  
12 and, according to Plaintiff BLUE's amended complaint, continue to be sold.

13 Upon information and belief, when Defendant VIOLET-BLUE's video productions were being  
14 sold at Good Vibrations in San Francisco, Plaintiff BLUE was employed at Good Vibrations in San  
15 Francisco.

16 Defendant WOFFINDEN began using her stage name, "Violet Blue" on or about March 2000.  
17 At that time, she performed an Internet search for the name, "Violet Blue," but received no  
18 responsive documents. No results were provided referring to Plaintiff BLUE. As such, Defendant  
19 WOFFINDEN reasonably concluded that she would experience no conflicts or confusion by using that  
20 name.

21 Defendant WOFFINDEN, since commencing her career, has appeared in no fewer than 300  
22 productions, using her maiden name, or more commonly, openly and notoriously using her stage  
23 name, "Violet Blue."

24 Unbeknownst to Defendant WOFFINDEN, Plaintiff BLUE alleges, at some time around 1999,  
25 she began using the *nom de plume*, "Violet Blue." Neither the Plaintiff nor the Defendant competes,  
26 one with the other, in their respective markets.

1 On or about March 2, 2007, almost eight (8) full years after Defendant WOFFINDEN began  
2 using her stage name, Plaintiff BLUE, filed her application for a trademark for the mark, "Violet Blue"  
3 for use in international classes 9 and 41. *See Trademark Application Serial No. 77121570*. The mark  
4 was placed on either the principal trademark register maintained by the United States Patent and  
5 Trademark Office on March 4, 2008 and given the registration number 3391010.

6 On or about October 22, 2007, Plaintiff BLUE, filed her complaint against Defendant  
7 WOFFINDEN. On or about October 23, 2007, Defendant WOFFINDEN was personally served with a  
8 copy of the summons and complaint. The due date for an answer to the complaint was November 13,  
9 2007. Defendant WOFFINDEN searched diligently for counsel to represent her. However, due to her  
10 extremely limited means, she was not able to secure representation. As such, she sought the assistance  
11 of the AVN Online magazine, who put out a call for assistance on Defendant WOFFINDEN's behalf.

12 In January 2002, AVN Media, a well-established and highly regarded publisher of adult  
13 entertainment industry trade magazines and sponsor of the annual AVN Awards that recognize  
14 accomplishments of individuals in the adult entertainment industry awarded Defendant WOFFINDEN  
15 the "Best New Starlet" award.

16 Plaintiff BLUE, a self-styled pornography aficionado, describes the Awards as "big  
17 backslapping event where the same companies and same names win year after year."<sup>1</sup>

18 Defendant WOFFINDEN believes, and therefore avers, that Plaintiff BLUE has never been  
19 nominated for nor received an AVN Award.

20 Since July 1999, Defendant WOFFINDEN has appeared or starred in more than 300 movies  
21 and is a well known celebrity, both domestically and abroad.

22 On November 13, 2007, as a result of much pressure by counsel for Plaintiff BLUE to do so or  
23 face a default on the complaint, Defendant WOFFINDEN filed her answer (dubbed "Response") to the  
24 complaint as a *pro se* litigant.

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25 <sup>1</sup> Violet Blue (2007-01-18). The Rise of Indie Porn? *SF Gate*.  
26

1 On November 29, 2007, Robert S. Apgood of CarpeLaw PLLC, filed his application for  
2 admission *pro hac vice* to this court for the limited purpose of representing Defendant WOFFINDEN  
3 in this matter.

4 On December 5, 2007, this Honorable Court granted the application.

5 On December 21, 2007, Plaintiff BLUE, a self-styled pornography aficionado, filed her Motion  
6 for Leave to File Amended Complaint.

7 On January 21, 2008, Defendant WOFFINDEN filed her Statement of Non-Opposition.

8 On January 29, 2008, this Honorable Court granted Plaintiff's motion.

9 On February 4, 2008, Defendant WOFFINDEN filed her answer to Plaintiff BLUE's First  
10 Amended Complaint, and Defendant WOFFINDEN alleged five counter claims against Plaintiff  
11 BLUE.

12 On February 25, 2008, Plaintiff BLUE filed a motion to strike and/or dismiss three of  
13 Defendant WOFFINDEN's counterclaims.

14 On April 7, 2008, this Honorable Court denied Plaintiff BLUE's motions to strike and/or  
15 dismiss VIOLET BLUE's three counterclaims, and granted Defendant WOFFINDEN's request for  
16 leave to amend her answer and counterclaims.

17 Defendant WOFFINDEN now respectfully amends her answers and counterclaims to  
18 Plaintiff's First Amended Complaint.

19 Answering Plaintiff's introductory paragraph at 1:24-28 through 2:1-3, Plaintiff states a  
20 conclusion of law to which no response is required. To the extent a response is required, Defendant  
21 WOFFINDEN admits that she has, at differing times, used the names, "Ada Mae Johnson," "Ada  
22 Woffinden," "Violet Blue," "Violet," and "Violet Lust" all for legitimate purposes and without any  
23 intent to perpetrate a fraud.

## 24 **I. PARTIES**

25 1. Answering Paragraph 1, the averments contained therein are conclusions of law to  
26 which no response is required. To the extent a response is deemed required, Defendant neither admits

1 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
2 Plaintiff to her proofs.

3 2. Answering Paragraph 2, the averments contained therein are conclusions of law to  
4 which no response is required. To the extent a response is deemed required, Defendant ADMITS the  
5 averments contained therein.

6 3. Answering Paragraph 3, the averments contained therein are conclusions of law to  
7 which no response is required. To the extent a response is deemed required, Defendant neither admits  
8 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
9 Plaintiff to her proofs.

10 4. Answering Paragraph 4, the averments contained therein are conclusions of law to  
11 which no response is required. To the extent a response is deemed required, Defendant neither admits  
12 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
13 Plaintiff to her proofs.

14 5. Answering Paragraph 5, the averments contained therein are conclusions of law to  
15 which no response is required. To the extent a response is deemed required, based upon information  
16 and belief, Defendant ADMITS the averments contained therein.

17 6. Answering Paragraph 6, the averments contained therein are conclusions of law to  
18 which no response is required. To the extent a response is deemed required, Defendant neither admits  
19 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
20 Plaintiff to her proofs.

21 7. Answering Paragraph 7, the averments contained therein are conclusions of law to  
22 which no response is required. To the extent a response is deemed required, Defendant neither admits  
23 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
24 Plaintiff to her proofs.

## 25 **II. JURISDICTION AND VENUE**

26 8. Answering Paragraph 8, the averments contained therein are conclusions of law to

1 which no response is required. To the extent a response is deemed required, based upon information  
2 and belief, Defendant ADMITS the averments contained therein.

3 9. Answering Paragraph 9, the averments contained therein are conclusions of law to  
4 which no response is required. To the extent a response is deemed required, based upon information  
5 and belief, Defendant ADMITS the averments contained therein. Defendant further ADMITS that  
6 venue is also proper in the United States District Court, Western District of Washington.

7 10. Answering Paragraph 10, the averments contained therein are conclusions of law to  
8 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
9 she has received monetary income as a result of the subscription Web site located at  
10 www.violetblue.org, but neither admits nor denies the remainder of the averments contained therein  
11 for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

12 11. Answering Paragraph 11, the averments contained therein are conclusions of law to  
13 which no response is required. To the extent a response is deemed required, Defendant neither admits  
14 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
15 Plaintiff to her proofs.

16 12. Answering Paragraph 12, the averments contained therein are conclusions of law to  
17 which no response is required. To the extent a response is deemed required, Defendant neither admits  
18 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
19 Plaintiff to her proofs.

20 13. Answering Paragraph 13, the averments contained therein are conclusions of law to  
21 which no response is required. To the extent a response is deemed required, Defendant neither admits  
22 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
23 Plaintiff to her proofs.

24 14. Answering Paragraph 14, the averments contained therein are conclusions of law to  
25 which no response is required. To the extent a response is deemed required, Defendant DENIES the  
26 averments thereon for the reason that the averments contained therein are untrue.

1           15.     Answering Paragraph 15, the averments contained therein are conclusions of law to  
2     which no response is required. To the extent a response is deemed required, Defendant DENIES the  
3     averments thereon for the reason that the averments contained therein are untrue.

### 4                           **III. INTRADISTRICT ASSIGNMENT**

5           16.     Answering Paragraph 16, the averments contained therein are conclusions of law to  
6     which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
7     Local Rule 3-2(c) applies to this matter.

### 8                           **IV. FACTS**

#### 9           **A.     PLAINTIFF BLUE'S BACKGROUND.**

10          17.     Answering Paragraph 17, the averments contained therein are conclusions of law to  
11     which no response is required. To the extent a response is deemed required, Defendant accepts at face  
12     value, and therefore does not deny, that Plaintiff is, as she pleads, "a newspaper communist."  
13     Regarding the remainder of the allegations, Defendant neither admits nor denies the averments  
14     contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

15          18.     Answering Paragraph 18, the averments contained therein are conclusions of law to  
16     which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
17     Exhibit A appears to be a written article. Regarding the remainder of the averments, Defendant neither  
18     admits nor denies the averments contained therein for lack of sufficient knowledge or information and  
19     leaves Plaintiff to her proofs.

20          19.     Answering Paragraph 19, the averments contained therein are conclusions of law to  
21     which no response is required. To the extent a response is deemed required, Defendant neither admits  
22     nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
23     Plaintiff to her proofs.

24          20.     Answering Paragraph 20, the averments contained therein are conclusions of law to  
25     which no response is required. To the extent a response is deemed required, Defendant neither admits  
26     nor denies the averments contained therein for lack of sufficient knowledge or information and leaves

1 Plaintiff to her proofs.

2 21. Answering Paragraph 21, the averments contained therein are conclusions of law to  
3 which no response is required. To the extent a response is deemed required, Defendant DENIES that  
4 Plaintiff authored or broadcasted her “podcast” prior to February 12, 2004, and only did so several  
5 years after Defendant WOFFINDEN had openly and notoriously employed the use of her stage name  
6 and common-law trademark, “Violet Blue.” Regarding the remainder of the paragraph, Defendant  
7 neither admits nor denies the averments contained therein for lack of sufficient knowledge or  
8 information and leaves Plaintiff to her proofs.

9 22. Answering Paragraph 22, the averments contained therein are conclusions of law to  
10 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
11 Exhibit B appears to be a Web page, but DENIES that the Web page refers to Plaintiff BLUE as “one  
12 of the Internet’s most influential figures.” Regarding the remainder of the averments, Defendant  
13 neither admits nor denies the averments contained therein for lack of sufficient knowledge or  
14 information and leaves Plaintiff to her proofs.

15 23. Answering Paragraph 23, the averments contained therein are conclusions of law to  
16 which no response is required. To the extent a response is deemed required, Defendant neither admits  
17 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
18 Plaintiff to her proofs.

19 24. Answering Paragraph 24, the averments contained therein are conclusions of law to  
20 which no response is required. To the extent a response is deemed required, Defendant neither admits  
21 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
22 Plaintiff to her proofs.

23 25. Answering Paragraph 25, the averments contained therein are conclusions of law to  
24 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
25 Exhibit C to the Amended Complaint is a photograph of a female, but DENIES that the exhibit provided  
26 to the Defendant if of a quality wherein any detail may be ascertained. Defendant also ADMITS that



1 the bangs termed “betty bangs” by the Plaintiff are reminiscent of the short bangs worn by the famous  
2 model and actress, “Betty Page.” Defendant WOFFINDEN further ADMITS that many women who  
3 perform in adult erotica emulate the hairstyles of noted performers, including Betty Page. Defendant  
4 WOFFINDEN ADMITS that, upon information and belief, as recently as September 24, 2005, Plaintiff  
5 BLUE did **NOT** wear her hair in the “Betty Bangs” style. *See, e.g.*,  
6 <<http://web.archive.org/web/20050920052020/www.tinynibbles.com/violetblue.html>>, whereas  
7 Defendant WOFFINDEN first emulated the Betty Page hairstyle in 2000 (at least five (5) years prior to  
8 Plaintiff BLUE adopting that style) when performing in the movie, “RealSexMachine 31.” Regarding  
9 the remainder of the averments, Defendant neither admits nor denies the averments contained therein  
10 for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

11 26. Answering Paragraph 26, the averments contained therein are conclusions of law to  
12 which no response is required. To the extent a response is deemed required, Defendant neither admits  
13 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
14 Plaintiff to her proofs.

15 **B. DEFENDANT JOHNSON (VIOLET BLUE)**

16 27. Answering Paragraph 27, the averments contained therein are conclusions of law to  
17 which no response is required. To the extent a response is deemed required, Defendant admits that  
18 early in her career, she adopted the stage name, “Violet Blue.” Defendant WOFFINDEN further  
19 ADMITS that, as a result of such long-term use of that stage name, Defendant WOFFINDEN  
20 possesses a common-law trademark in the mark, “Violet Blue.” Regarding the remainder of the  
21 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient  
22 knowledge or information and leaves Plaintiff to her proofs.

23 28. Answering Paragraph 28, the averments contained therein are conclusions of law to  
24 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
25 since she began her acting career, she has appeared in hundreds of films, both mainstream and erotic,  
26 wherein she appeared under stage name, “Violet Blue,” including those listed in Defendant BLUE’S

1 complaint. Regarding the remainder of the paragraph, Defendant neither admits nor denies the  
2 averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her  
3 proofs.

4 29. Answering Paragraph 29, the averments contained therein are conclusions of law to  
5 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
6 some of the performances in which she partook were recorded in the State of California, but DENIES  
7 that all such recordings occurred in the State of California.

8 30. Answering Paragraph 30, the averments contained therein are conclusions of law to  
9 which no response is required. To the extent a response is deemed required, Defendant DENIES the  
10 averments contained therein indicating that recordings of Defendant's performances are available for  
11 sale at the Web sites located at [www.movies.violetblue.org](http://www.movies.violetblue.org) and [www.violetblue.org](http://www.violetblue.org). Regarding the  
12 remainder of the paragraph, Defendant neither admits nor denies the averments contained therein for  
13 lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

14 31. Answering Paragraph 31, the averments contained therein are conclusions of law to  
15 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
16 she has attended tradeshow in the District of Northern California promoting both her mainstream and  
17 erotic performances, both on video and on the Internet Web site located at [www.violetblue.org](http://www.violetblue.org), but  
18 DENIES that she "makes regular trips to this Judicial District." Regarding the remainder of the  
19 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient  
20 knowledge or information and leaves Plaintiff to her proofs.

21 32. Answering Paragraph 32, the averments contained therein are conclusions of law to  
22 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
23 some of the performances in which she partook were recorded in the State of California, and that when  
24 she was so performing, she was doing so under her stage name and common-law trademark, "Violet  
25 Blue."

26 33. Answering Paragraph 33, the averments contained therein are conclusions of law to

1 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
2 she agreed to appear at the Exotic Erotic Ball and ADMITS that she entered into contracts with Perry  
3 Mann, Inc. to appear in the Exotic Erotic Ball, but DENIES the remainder of the allegations for the  
4 reason that the averments contained therein are untrue.

5 34. Answering Paragraph 34, the averments contained therein are conclusions of law to  
6 which no response is required. To the extent a response is deemed required, Defendant neither admits  
7 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
8 Plaintiff to her proofs.

9 35. Answering Paragraph 35, the averments contained therein are conclusions of law to  
10 which no response is required. To the extent a response is deemed required, Defendant DENIES that  
11 www.violetblue.org is a "domain name." Defendant ADMITS that "www.violetblue.org" is a *host*  
12 *name*. Defendant ADMITS that the domain name, "violetblue.org" was registered in 2001, in part for  
13 her benefit. Regarding the remainder of the paragraph, Defendant DENIES the averments contained  
14 therein for the reasons that the averments contained therein are untrue.

15 36. Answering Paragraph 36, the averments contained therein are conclusions of law to  
16 which no response is required. To the extent a response is deemed required, DENIES that  
17 www.violetblue.org is a "domain," but ADMITS that the Web site located at "www.violetblue.org"  
18 has been and continues to be used for marketing Defendant WOFFINDEN's goods and services  
19 utilizing her stage name and trademark, "Violet Blue." Defendant WOFFINDEN ADMITS that  
20 certain areas of the Web site located at www.violetblue.org contain imagery of her designed to  
21 strongly resemble the real-life and long-standing appearance of the famous model and actress, "Betty  
22 Page." See Exhibit A attached hereto and by this reference hereby made a part hereof. Defendant  
23 ADMITS that Plaintiff has styled herself to look like the famous actress and model "Betty Page" and  
24 that Plaintiff affirms this by referring to her short hair "bangs" as "Betty Bangs." Defendant  
25 WOFFINDEN DENIES that she uses Plaintiff BLUE's likeness. Defendant WOFFINDEN also  
26 DENIES that Plaintiff BLUE, a self-styled pornography aficionado, has the exclusive right to resemble

1 the real-life and long-standing appearance of the famous model and actress, "Betty Page" and that to  
2 make any such representations is disingenuous. Defendant WOFFINDEN ADMITS that Exhibit D to  
3 Plaintiff's First Amended Complaint contains a photograph of a female, alleged by Plaintiff to be of  
4 herself, who has prepared herself to strongly resemble the real-life and long-standing appearance of the  
5 famous model and actress, "Betty Page." *See, e.g.,*

6 <<http://web.archive.org/web/20060507095625/www.bettiepage.com/photos/nude/index.html>>.

7 Regarding the remainder of the paragraph, Defendant DENIES the averments contained therein for the  
8 reasons that the averments contained therein are untrue.

9 37. Answering Paragraph 37, the averments contained therein are conclusions of law to  
10 which no response is required. To the extent a response is deemed required, Defendant ADMITS the  
11 averments contained therein.

12 38. Answering Paragraph 38, the averments contained therein are conclusions of law to  
13 which no response is required. To the extent a response is deemed required, Defendant neither admits  
14 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
15 Plaintiff to her proofs.

16 **C. DEFENDANT ASSASSIN PICTURES.**

17 39. Answering Paragraph 39, the averments contained therein are conclusions of law to  
18 which no response is required. To the extent a response is deemed required, Defendant neither admits  
19 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
20 Plaintiff to her proofs.

21 40. Answering Paragraph 40, the averments contained therein are conclusions of law to  
22 which no response is required. To the extent a response is deemed required, Defendant neither admits  
23 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
24 Plaintiff to her proofs.

25 41. Answering Paragraph 41, the averments contained therein are conclusions of law to  
26 which no response is required. To the extent a response is deemed required, upon information and

1 belief, Defendant Assassin Pictures provides billing services through its AssassinCash program.  
2 Regarding the remainder of the paragraph, Defendant neither admits nor denies the averments  
3 contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

4 42. Answering Paragraph 42, the averments contained therein are conclusions of law to  
5 which no response is required. To the extent a response is deemed required, upon information and  
6 belief, Defendant Assassin Pictures receives income as a result of the paid subscriptions and other  
7 commercial activity conducted on Defendant WOFFINDEN's Web site located at [www.violetblue.org](http://www.violetblue.org).  
8 Defendant WOFFINDEN further ADMITS that she uses her stage name and trademark, "Violet Blue"  
9 on that Web site. Regarding the remainder of the paragraph, Defendant neither admits nor denies the  
10 averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her  
11 proofs.

12 43. Answering Paragraph 43, the averments contained therein are conclusions of law to  
13 which no response is required. To the extent a response is deemed required, upon information and  
14 belief, Defendant Assassin Pictures receives income through Defendant WOFFINDEN's Web site  
15 located at [www.violetblue.org](http://www.violetblue.org). Regarding the remainder of the paragraph, Defendant neither admits  
16 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
17 Plaintiff to her proofs.

18 **D. DEFENDANT ASSASSINCASH.**

19 44. Answering Paragraph 44, the averments contained therein are conclusions of law to  
20 which no response is required. To the extent a response is deemed required, Defendant neither admits  
21 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
22 Plaintiff to her proofs.

23 45. Answering Paragraph 45, the averments contained therein are conclusions of law to  
24 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
25 a Web site exists at [www.assassincash.com](http://www.assassincash.com). Defendant WOFFINDEN ADMITS that "Defendant is  
26 informed and believes that Defendant AssassinCash is operated by Defendant Assassin Pictures."

1 Regarding the remainder of the paragraph, Defendant neither admits nor denies the averments  
2 contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

3 46. Answering Paragraph 46, the averments contained therein are conclusions of law to  
4 which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
5 “Defendant is informed and believes that AssassinCash is operated for the purpose of promoting an  
6 adult erotic entertainment ‘affiliate program’ to assist individuals” in earning commissions on sales  
7 referred to Web sites sponsored and promoted by AssassinCash. Regarding the remainder of the  
8 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient  
9 knowledge or information and leaves Plaintiff to her proofs.

10 47. Answering Paragraph 47, the averments contained therein are conclusions of law to  
11 which no response is required. To the extent a response is deemed required, upon information and  
12 belief, Defendant ADMITS that AssassinCash receives income as a result of the commercial aspects of  
13 Defendant WOFFINDEN’s Web site located at www.violetblue.org. Defendant WOFFINDEN further  
14 ADMITS that the offerings at the Web site located at www.violetblue.org feature Defendant  
15 WOFFINDEN using her stage name and trademark, “Violet Blue.” Regarding the remainder of the  
16 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient  
17 knowledge or information and leaves Plaintiff to her proofs.

18 48. Answering Paragraph 48, the averments contained therein are conclusions of law to  
19 which no response is required. To the extent a response is deemed required, upon information and  
20 belief, Defendant AssassinCash receives income through Defendant WOFFINDEN’s Web site located  
21 at www.violetblue.org. Regarding the remainder of the paragraph, Defendant neither admits nor  
22 denies the averments contained therein for lack of sufficient knowledge or information and leaves  
23 Plaintiff to her proofs.

24 **E. DEFENDANT FOX**

25 49. Answering Paragraph 49, the averments contained therein are conclusions of law to  
26 which no response is required. To the extent a response is deemed required, upon information and

1 belief, Defendant WOFFINDEN ADMITS the averments contained therein.

2 50. Answering Paragraph 50, the averments contained therein are conclusions of law to  
3 which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN  
4 ADMITS that she has a Web site located at www.violetblue.org, but DENIES the remainder of the  
5 paragraph for the reason that the averments contained therein are untrue.

6 51. Answering Paragraph 51, the averments contained therein are conclusions of law to  
7 which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN  
8 ADMITS that she has a Web site located at www.violetblue.org, but DENIES the remainder of the  
9 paragraph for the reason that the averments contained therein are untrue.

10 **F. DEFENDANT FIVE STAR**

11 52. Answering Paragraph 52, the averments contained therein are conclusions of law to  
12 which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN  
13 DENIES the averments contained therein for the reason that the averments contained therein are  
14 untrue.

15 53. Answering Paragraph 53, the averments contained therein are conclusions of law to  
16 which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN  
17 DENIES the averments contained therein for the reason that the averments contained therein are  
18 untrue.

19 **G. ACTUAL CONFUSION AND THE DILUTION RESULTING FROM**  
20 **DEFENDANTS' USE OF PLAINTIFF BLUE'S NAME AND LIKENESS.**

21 54. Answering Paragraph 54, the averments contained therein are conclusions of law to  
22 which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN  
23 ADMITS that she was scheduled to appear at the "Exotic Erotic Ball" on or about October 28, 2006  
24 using her stage name and trademark, "Violet Blue." Regarding the remainder of the paragraph,  
25 Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge  
26 or information and leaves Plaintiff to her proofs.



1           55.     Answering Paragraph 55, the averments contained therein are conclusions of law to  
2     which no response is required. To the extent a response is deemed required, Defendant DENIES that  
3     Plaintiff was broadcasting her “podcast” in March 2000, when Defendant commenced use of her full  
4     stage name, “Violet Blue.” Regarding the remainder of the averments therein, Defendant neither  
5     admits nor denies the averments contained therein for lack of sufficient knowledge or information and  
6     leaves Plaintiff to her proofs.

7           56.     Answering Paragraph 56, the averments contained therein are conclusions of law to  
8     which no response is required. To the extent a response is deemed required, Defendant neither admits  
9     nor denies the averments contained therein for lack of sufficient knowledge or information and leaves  
10    Plaintiff to her proofs.

11          57.     Answering Paragraph 57, the averments contained therein are conclusions of law to  
12    which no response is required. To the extent a response is deemed required, Defendant ADMITS that  
13    the Web site located at “www.violetblue.org” has been and continues to be used for marketing  
14    Defendant WOFFINDEN’s goods and services utilizing her stage name and trademark, “Violet Blue.”  
15    Defendant WOFFINDEN ADMITS that certain areas of the Web site located at www.violetblue.org  
16    contain imagery of her designed to strongly resemble the real-life and long-standing appearance of the  
17    famous model and actress, “Betty Page.” Defendant WOFFINDEN DENIES that she uses Plaintiff  
18    BLUE’s likeness. Defendant WOFFINDEN also DENIES that Plaintiff BLUE has the exclusive right  
19    to resemble the real-life and long-standing appearance of the famous model and actress, “Betty Page”  
20    and that to make any such representations is disingenuous. Defendant WOFFINDEN ADMITS that in  
21    readying for some performances, she has prepared herself in the past to strongly resemble the real-life  
22    and long-standing appearance of the famous model and actress, “Betty Page.” *See, e.g.*,  
23    <<http://web.archive.org/web/20060507095625/www.bettiepage.com/photos/nude/index.html>>.  
24    Regarding the remainder of the paragraph, Defendant DENIES the averments contained therein for the  
25    reasons that the averments contained therein are untrue.  
26



**H. (F) DEFENDANT JOHNSON'S BROKEN PROMISE TO CEASE AND DESIST**

58. Answering Paragraph 58, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant ADMITS that at one time she represented to Plaintiff BLUE that she was considering no longer using the stage name, "Violet Blue," but DENIES that such representation was a promise. Regarding the remainder of the paragraph, Defendant DENIES the averments contained therein for the reasons that the averments contained therein are untrue.

59. Answering Paragraph 59, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN DENIES that her use of her stage name and trademark, "Violet Blue" is use of Plaintiff BLUE's valuable identity and trademark (much less an "unauthorized" one). Defendant WOFFINDEN ADMITS that her use of her stage name and common-law trademark, "Violet Blue" is fully within her lawful rights of use of her mark.

60. Answering Paragraph 60, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant WOFFINDEN ADMITS that Plaintiff BLUE, a self-styled pornography aficionado, has demanded that Defendant WOFFINDEN cease, desist, and quit use of Defendant WOFFINDEN's stage name and trademark, "Violet Blue." Regarding the remainder of the paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

**V. CAUSES OF ACTION****FIRST CAUSE OF ACTION****(Trademark Infringement)**

61. Answering Paragraph 61, Defendant repeats and restates her answers in Paragraphs 1 through 60 as if set forth fully herein.

62. Answering Paragraph 62, the averments contained therein are conclusions of law. To

1 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
2 the reasons that said allegations are untrue.

3 63. Answering Paragraph 63, the averments contained therein are conclusions of law. To  
4 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
5 the reasons that said allegations are untrue.

6 64. Answering Paragraph 64, the averments contained therein are conclusions of law. To  
7 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
8 the reasons that said allegations are untrue.

9 65. Answering Paragraph 65, the averments contained therein are conclusions of law. To  
10 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
11 the reasons that said allegations are untrue.

12 66. Answering Paragraph 66, the averments contained therein are conclusions of law. To  
13 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
14 the reasons that said allegations are untrue.

15 **SECOND CAUSE OF ACTION**

16 **(Trademark Dilution)**

17 67. Answering Paragraph 67, Defendant repeats and restates her answers in Paragraphs 1  
18 through 66 as if set forth fully herein.

19 68. Answering Paragraph 68, the averments contained therein are conclusions of law. To  
20 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
21 the reasons that said allegations are untrue.

22 69. Answering Paragraph 69, the averments contained therein are conclusions of law. To  
23 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
24 the reasons that said allegations are untrue.

25 70. Answering Paragraph 70, the averments contained therein are conclusions of law. To  
26 the extent that a response is deemed required, Defendant ADMITS that Plaintiff has no control over

1 the quality of Defendant's offerings whether through her Web site or through brick-and-mortar sales  
2 establishments, but DENIES the remainder of the paragraph for the reasons that said allegations are  
3 untrue. Moreover, Defendant objects to Plaintiff's characterization of Defendant's work as "base,  
4 obscene, and pornographic" on the basis that Plaintiff owes much of her status as a self-described  
5 "well known and respected personality in the field of human sexuality" to authoring reviews on  
6 pornographic films. Specifically, Defendant WOFFINDEN DENIES that Plaintiff's mark is  
7 "protected" from concurrent use by Defendant. Defendant WOFFINDEN ADMITS that Plaintiff's  
8 own Web site located at <http://www.tinybubbles.com> discusses subjects such as "suck-lick-rim" (a  
9 reference to mouth-to-anus and mouth-to-genital sexual conduct), "hot sex ed" and "find good porn."  
10 Further, the works authored or reviewed by the Plaintiff include such titles as "The Ultimate Guide To  
11 Adult Videos: How To Watch Adult Videos And Make Your Sex Life Sizzle," "The Ultimate Guide  
12 To Fellatio: How To Go Down On A Man And Give Him Mind-Blowing Pleasure," "The Ultimate  
13 Guide To Cunnilingus," "The Smart Girl's Guide To Porn" and "Ultimate Guide To Anal Sex For  
14 Women."

15 71. Answering Paragraph 71, the averments contained therein are conclusions of law. To  
16 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
17 the reasons that said allegations are untrue.

18 72. Answering Paragraph 72, the averments contained therein are conclusions of law. To  
19 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
20 the reasons that said allegations are untrue.

21 73. Answering Paragraph 73, the averments contained therein are conclusions of law. To  
22 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
23 the reasons that said allegations are untrue.

24 74. Answering Paragraph 74, the averments contained therein are conclusions of law. To  
25 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
26 the reasons that said allegations are untrue.

1           75.     Answering Paragraph 75, the averments contained therein are conclusions of law. To  
2 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
3 the reasons that said allegations are untrue.

4                                   **THIRD CAUSE OF ACTION**

5                                   **(Violation of Cal. Civil Code § 3344)**

6           76.     Answering Paragraph 76, Defendant repeats and restates her answers in Paragraphs 1  
7 through 75 as if set forth fully herein.

8           77.     Answering Paragraph 77, the averments contained therein are conclusions of law. To  
9 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
10 the reasons that said allegations are untrue.

11           78.     Answering Paragraph 78, the averments contained therein are conclusions of law. To  
12 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
13 the reasons that said allegations are untrue. Moreover, Defendant objects to Plaintiff's disingenuous  
14 characterization of Defendant's work as "obscene" on the basis that Plaintiff owes much of her status  
15 as a self-described "well known and respected personality in the field of human sexuality" to authoring  
16 reviews on adult entertainment films in which Defendant WOFFINDEN and others have performed.  
17 Defendant WOFFINDEN ADMITS that Plaintiff's own Web site located at  
18 <http://www.tinynibbles.com> discusses subjects such as "suck-lick-rim" (a reference to mouth-to-anus  
19 and mouth-to-genital sexual conduct), "hot sex ed" and "find good porn." Further, the works authored  
20 or reviewed by the Plaintiff include such titles as "The Ultimate Guide To Adult Videos: How To  
21 Watch Adult Videos And Make Your Sex Life Sizzle," "The Ultimate Guide To Fellatio: How To Go  
22 Down On A Man And Give Him Mind-Blowing Pleasure," "The Ultimate Guide To Cunnilingus,"  
23 "The Smart Girl's Guide To Porn" and "Ultimate Guide To Anal Sex For Women."

24           79.     Answering Paragraph 79, the averments contained therein are conclusions of law. To  
25 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
26 the reasons that said allegations are untrue.

1           80.     Answering Paragraph 80, the averments contained therein are conclusions of law. To  
2 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
3 the reasons that said allegations are untrue.

4           81.     Answering Paragraph 81, the averments contained therein are conclusions of law. To  
5 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
6 the reasons that said allegations are untrue.

7                               **FOURTH CAUSE OF ACTION**

8                               **(Unfair Competition)**

9           82.     Answering Paragraph 82, Defendant repeats and restates her answers in Paragraphs 1  
10 through 81 as if set forth fully herein.

11           83.     Answering Paragraph 83, the averments contained therein are conclusions of law. To  
12 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
13 the reasons that said allegations are untrue.

14           84.     Answering Paragraph 84, the averments contained therein are conclusions of law. To  
15 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
16 the reasons that said allegations are untrue.

17           85.     Answering Paragraph 85, the averments contained therein are conclusions of law. To  
18 the extent that a response is deemed required, Defendant DENIES the averments contained therein for  
19 the reasons that said allegations are untrue.

20                               **VI. AFFIRMATIVE DEFENSES**

21           As affirmative defenses, Defendant alleges and states as follows:

- 22           1. Plaintiff has failed in whole or in part to state a claim upon which relief can be granted;  
23           2. Plaintiff has suffered no damages and/or has failed to mitigate her damages, if any;  
24           3. Plaintiff has suffered no injury nor is there a likelihood of injury;  
25           4. Plaintiff has suffered no harm and/or irreparable harm;  
26           5. Plaintiff failed to protect and/or enforce her alleged rights;

1 6. Plaintiff's Complaint is barred as unconscionable;

2 7. Plaintiff's Complaint is barred by reason of waiver;

3 8. Plaintiff's Complaint is barred by the doctrine of estoppel;

4 9. Plaintiff's Complaint is barred by the doctrine of assumption of laches;

5 10. No conduct by or attributable to Defendant was either the cause in fact or the proximate  
6 cause of the damages alleged by Plaintiff. Rather, the damages alleged by Plaintiff were caused, either  
7 in whole or in part, by Plaintiff's own acts or omissions or by the acts or omissions of persons or  
8 entities other than Defendant. Plaintiffs' damages, if any, must be reduced accordingly;

9 11. Plaintiff's Complaint is barred by the Statutes of Limitations;

10 12. Plaintiff lacks exclusive right of use of the mark;

11 13. Plaintiff's claimed mark, "Violet Blue," is not a famous mark as that term is contemplated  
12 by 15 U.S.C. § 1125(c)(1), *et seq.* Plaintiff admits the same wherein on her own Web page located at  
13 <<http://www.tinynibbles.com>>, she reproduces a quote from Webnation that states, "She might not be  
14 a household name, but Violet Blue is the leading sex educator for the Internet generation." –  
15 Webnation;

16 14. Plaintiff's requested mark is not fanciful.

17 15. Plaintiff's requested trademark is a word mark that is identical to the Crayola Crayon color,  
18 "Violet Blue," first offered in 1949, and Defendant WOFFINDEN's common-law trademark;

19 16. When Defendant WOFFINDEN adopted the use of her stage name, she had no knowledge  
20 of the Plaintiff;

21 17. Plaintiff, by attempting to convert the real-life and long-standing appearance of the famous  
22 model and actress "Betty Page" to her own exclusive use, comes to the court with unclean hands;

23 18. Plaintiff, by emphasizing the term "pornography" in her complaint when referring to the  
24 offerings of Defendant WOFFINDEN, implies that she does not engage in pornography. Yet, links to  
25 pornographic images of her emanate from her own Web site located at <<http://www.tinynibbles.com>>  
26 and direct the reader to the Web site located at <[http://theblight.net/08/hhr\\_jan/](http://theblight.net/08/hhr_jan/)>. By intentionally

1 misleading this Honorable Court, Plaintiff BLUE, a self-styled pornography aficionado, comes to the  
2 court with unclean hands;

3 19. Plaintiff has filed trademark and service mark applications for subject matter specifically  
4 related to “sexual pleasures and pornography”;

5 20. Although Defendant denies making any promises to Plaintiff, any promise that may have  
6 been made by Defendant WOFFINDEN to Plaintiff BLUE, a self-styled pornography aficionado, to  
7 cease using Defendant’s stage name and trademark, “Violet Blue,” was a gratuitous promise, wholly  
8 unsupported by consideration of any kind, and was subject to unilateral withdrawal by Defendant  
9 WOFFINDEN at any time for any reason, or no reason at all;

10 21. Plaintiff has acquiesced to Defendant WOFFINDEN’s use of the mark;

11 22. Defendant WOFFINDEN’s use of the mark was concurrent to Plaintiff’s use of the mark  
12 since at least March 2000;

13 23. Plaintiffs cannot establish its claims of trademark infringement and unfair competition  
14 claims as the parties have co-existed with their respective uses of the name “Violet Blue” for many  
15 years without confusion;

16 24. Plaintiff cannot establish her first claim of infringement if Defendant’s counterclaim for  
17 cancellation of Trademark and Service Mark Application Serial No. 77121570 (unregistered mark) is  
18 granted;

19 25. Defendant hereby reserves the right to add, supplement, modify, change or amend any and  
20 all of its Affirmative Defenses as the facts and circumstances become known through further discovery  
21 and/or investigation.

## 22 **VII. COUNTERCLAIMS**

23 Defendant Ada Mae Woffinden, *nee* Johnson (“Counterclaim Plaintiff”), an individual, asserts  
24 these counterclaims against Plaintiff Violet Blue, an individual (“Counterclaim Defendant”).

## 25 **PARTIES**

26 1. Counterclaim Plaintiff Ada Mae Woffinden, *nee* Johnson, is an individual who resides

1 in the State of Washington.

2 2. Counterclaim Defendant, Violet Blue aka Wendy Sullivan Blue, is an individual who,  
3 on information and belief, resides in the State of California.

4 3. Counterclaim Defendant is listed as the owner of Trademark Registration Application  
5 Serial No. 77121570 and the Trademark Registration No. 3391010 for the trademark and service mark  
6 “Violet Blue” in the International Class 009 for web casts, and podcasts featuring music, audio books  
7 and news broadcasts, in the fields of *inter alia*, sexual pleasures and pornography; and in International  
8 Class 041 for downloadable publications in the nature of individual texts of blog posts, photographs,  
9 electronic books, audio books, news columns, and newsletters, in the fields of, *inter alia*, sexual  
10 pleasures and pornography.

11 4. As a result of her close association with the adult erotica market, Counterclaim  
12 Defendant knew, or should have known, that Counterclaim Plaintiff Woffinden was openly and  
13 notoriously using the stage name and trademark “Violet Blue” as no later than March 2000.

14 **JURISDICTION AND VENUE**

15 5. This Court has jurisdiction over the subject matter of these counterclaims pursuant to  
16 28 U.S.C. §§ 1331 and 1338.

17 6. This Court has personal jurisdiction over Counterclaim Defendant and venue in this  
18 District is proper pursuant to 28 U.S.C. § 1391, and by virtue of the fact that the Counterclaim  
19 Defendant resides in this District and regularly solicits business in this District. Counterclaim  
20 Plaintiffs further assert that jurisdiction is also proper in the Western District of Washington, as that is  
21 the district in which the Defendant/Counterclaim Plaintiff resides, and in which the Counterclaim  
22 Defendant conducts business by offering for sale to the residents therein, the various books that she  
23 has authored. Counterclaim Defendant offers her books for sale through the online retailer,  
24 Amazon.com, with whom she has a contractual relationship and who is located in the Western District  
25 of Washington.  
26



**FIRST COUNTERCLAIM FOR DECLARATORY RELIEF**

7. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

8. Counterclaim Plaintiff requests declaratory relief that her use of “Violet Blue” in connection with online and video adult erotica performances is not infringing Counterclaim Defendant’s use of her name “Violet Blue” in connection with web casts, and podcasts featuring music, audio books and news broadcasts, in the fields of *inter alia*, sexual pleasures and pornography, and other categories identified in Trademark International Class 9, and downloadable publications in the nature of individual texts of blog posts, photographs, electronic books, audio books, news columns, newsletters, and other categories in the fields of *inter alia*, sexual pleasures and pornography, identified in Trademark International Class 41.

**SECOND COUNTERCLAIM FOR DECLARATORY RELIEF**

9. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

10. Counterclaim Plaintiff requests declaratory relief that Counterclaim Defendant’s use of “Violet Blue” is not famous and has not been diluted by Counterclaim Plaintiffs’ use of “Violet” and “Violet Blue” in connection with online and video mainstream and adult erotica performances.

**THIRD COUNTERCLAIM FOR CANCELLATION OF U.S. TRADEMARK AND SERVICE MARK REGISTRATION NO. 3391010**

11. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

12. Counterclaim Plaintiff requests that the Court cancel Counterclaim Defendant’s U.S. Trademark and Service Mark Registration No. 3391010 as the Counterclaim Defendant committed fraud on the U.S. Trademark Office by representing to the Office that Counterclaim Defendant’s use of the sought mark has been used “exclusively and continuously” in International Class 009 for web casts, and podcasts featuring music, audio books and news broadcasts, in the fields of *inter alia*,

1 sexual pleasures and pornography; and in International Class 041 for downloadable publications in the  
2 nature of individual texts of blog posts, photographs, electronic books, audio books, news columns,  
3 and newsletters, in the fields of, *inter alia*, sexual pleasures and pornography and Counterclaim  
4 Defendant intentionally failed to take steps to correct this misrepresentation.

5 **FOURTH COUNTERCLAIM FOR DAMAGES FROM DEFAMATION**

6 13. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every  
7 allegation set forth above.

8 14. Counterclaim Defendant has made numerous postings on the Internet regarding  
9 Counterclaim Plaintiff and has, at times, slandered and libeled Counterclaim Plaintiff in such a  
10 manner on Counterclaim Defendants Web site that Counterclaim Plaintiff cannot respond in a  
11 meaningful manner.

12 15. Counterclaim Defendant's allegations were and are false.

13 16. Counterclaim Plaintiff intended that these instances of defamation be committed in  
14 such a manner that Counterclaim Plaintiff could not and cannot respond in a meaningful manner to  
15 dispute the allegations.

16 17. Counterclaim Defendant is in an advantaged comparative situation over Counterclaim  
17 Plaintiff in that she is able to reach the ears of some 3.2 million people on the Internet, as alleged in  
18 her First Amended Complaint, and several millions of people in the greater San Francisco, California  
19 area as a result of her weekly column in the SFGate publication.

20 18. By making these allegations, Counterclaim Defendant intended for other persons to  
21 believe her allegations to be true.

22 19. Responses on Counterclaim Defendant's Web site indicate that other persons did  
23 believe Counterclaim Defendants allegations to be true.

24 20. Since Counterclaim Plaintiff is unable to post responses on Counterclaim Defendant's  
25 Web site, she is unable to dispute the allegations, and is thereby damaged by the false allegations.

26 21. As a result, Counterclaim Plaintiff has been damaged in an amount to be proven at trial.

**VIII. PRAYER FOR RELIEF**

WHEREFORE, Defendant/Counterclaim Plaintiff prays:

1. That the Court deny all of Plaintiff's claims and relief and/or damages;
2. That the Court enter judgment in favor of Defendant on Plaintiff's claims and dismiss Plaintiff's Complaint with prejudice;
3. That the Court grant Counterclaim Plaintiff judgment against Counterclaim Defendant on Counterclaim Plaintiff's counterclaims;
4. That the Court declares that Defendant did not infringe or dilute under the Lanham Act and that Defendant did not violate unfair competition laws;
5. That Plaintiff failed to make an adequate pre-filing investigation as required under Rule 11, and the Court consider sanctions under Rule 11, including and award of attorney's fees to Defendant;
6. That Counterclaim Defendant's U.S. Trademark and Service Mark Registration No. 3391010 be cancelled;
7. That Defendant, Counterclaim Plaintiff be awarded her reasonable costs, including attorney's fees, incurred defending herself in this action and prosecuting her counterclaims;
8. That Counterclaim Plaintiff be awarded fees pursuant to 28 U.S.C. § 1927; and
9. For such further and other relief as the Court may deem appropriate.

**IX. JURY DEMAND**

Defendant/Counterclaim Plaintiff respectfully demands a trial by a jury of her peers.

DATED THIS 7<sup>th</sup> day of May 2008.

Respectfully submitted,  
CARPELAW PLLC

/s/ Robert S. Apgood  
Robert S. Apgood, *Pro Hac Vice*  
WSBA #31023  
Attorney for Defendant Ada Mae Woffinden  
CARPELAW PLLC

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DECLARATION OF SERVICE

I, Robert S. Apgood, hereby make the following Declaration from personal knowledge that on May 7, 2008, I electronically filed the foregoing:

1. Defendant Woffinden's Second Amended Answer To Plaintiff's First Amended Complaint, Affirmative Defenses, Counterclaims, Prayer For Relief And Jury Demand; and
2. this certificate of Service

with the Clerk of the Court using the CM/ECF system. In accordance with their ECF registration agreement and the court's rules, the Clerk of the Court will send e-mail notification of such filing to the following attorneys:

Collette Vogeles  
Benjamin Costa  
Vogele & Associates  
12 Geary Street, Suite 701  
San Francisco, CA 94108

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 7<sup>th</sup> day of May 2008 at Seattle, Washington.

CARPELAW PLLC

s/ Robert S. Apgood

Pro Hac Vice

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